

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

WITOLD BAGINSKI,

Plaintiff,

V.

BOROUGH OF WALLINGTON;
EUGENIUSZ RACHELSKI, individually
and in his official capacity as Councilman;
KHALDOUN ANDROWIS individually and
in his official capacity as Councilman;
MELISSA DABAL, individually and in her
official capacity as Councilwoman; BRYAN
OLKOWSKI, individually and in his official
capacity as Councilman; VICTOR POLCE,
individually and in his official capacity as
Borough Administrator, XYZ CORP. INC.
(1— 10); JOHN DOES (1-10) AND JANE
DOES (1- 10),

Defendants

CASE NO: 2:17-cv-05320 (JLL) (JAD)

Civil Action

**CERTIFICATION OF
LEONARD E. SEAMAN, ESQ.**

I, Leonard E. Seaman, hereby certify as follows:

1. I am an attorney at law of the State of New Jersey and am admitted to practice before the United States District Court for the District of New Jersey.

2. I am Of Counsel with the Law Offices of Richard Malagiere, PC, co-counsel for the Borough in this matter.

3. I make this certification in opposition to the motion by Plaintiff, Wiltold Baginski, for discovery sanctions, related to the Borough's production of documents in July and August of this year.

4. Annexed hereto as Exhibit A is a true and accurate copy of correspondence dated July 22, 2020 from Timothy O'Conner, Esq. serving a copy of a November 20, 2017 "Investigation Report" relating to the claims in this matter.

5. Annexed hereto as Exhibit B is a true and accurate copy of my letter of August 7, 2020 producing email messages to and from the email accounts maintained by the Borough for its official business: “wbaginski@wallington.org” (the “Wallington[dot]org email account”) and “v.baginski@verizon.net.” (the “Verizon[dot]net email account”). The total size of that production amounted to approximately 5.5 gigabytes of data in PDF files.

6. On August 17, 2020, I provided Plaintiff’s counsel with a portion of the documents already produced on August 7, 2020 Bates Numbered “BAGINSKI EMAILS 0001 through BAGINSKI EMAILS 0140. Plaintiff has claimed that the attorney-client privilege applies to the following emails in that production, Bates Numbers 0101, 0103, 0105-0107, 0111-0113, 0120-0121, 0122-0123, 0124-0125, 0126-128, 0129, and 0135-0136. Annexed hereto as exhibits are true and accurate copies of those documents:

Exhibit C	Bates number 0101
Exhibit D	Bates Number 0103
Exhibit E	Bates Number 0105-0107
Exhibit F	Bates Number 0111-0113
Exhibit G	Bates Number 0120-0121
Exhibit H	Bates Number 0122-0123
Exhibit I	Bates Number 0124-0125
Exhibit J	Bates Number 0126-0128
Exhibit K	Bates Number 0129
Exhibit L	Bates Number 0135-0136

Communications between Plaintiff and counsel have been redacted from Exhibits C, D, E, G, I, and K.

7. Annexed hereto as Exhibit M is true and accurate copy of relevant portions of the Borough's 2016 Employee Manual.

8. In July 2020, after the emails described in paragraph 5, above, were obtained by my office, Matthew Gilson, Esq. was assigned to review them prior to their production. As he was doing that, he discovered the presence of communications between Baginski and counsel and alerted me to same. As soon as that occurred, the I directed him to stop the review.

9. On July 28, 2020, I contacted Douglas Neumetzger and confirmed how the emails were obtained. His description to me was consistent with that set forth in his Certification of November 1, 2020.

10. I then reviewed the relevant case law and ethical requirements. Through that review, I made the determination that the emails were not privileged communications inadvertently disclosed that would be subject to notice and return to Plaintiff's counsel but rather relevant documents that should be produced as part of the Borough's ongoing discovery obligations.

11. The emails were provided shortly after that determination was made

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

s/ Leonard E. Seaman
LEONARD E. SEAMAN
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DATED: November 2, 2020